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EXAMINER

BURGESS, BARBARA N

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/719,191	<b>Applicant(s)</b> KAN ET AL.	
	<b>Examiner</b> BARBARA N. BURGESS	<b>Art Unit</b> 2457	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5,7-19,21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,7-19,21 and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This Office Action is in response to Amendment filed April 6, 2009. Claim 20 has been cancelled as requested by Applicant. Claims 21-22 are newly added and presented for initial examination. Claims 1-5, 7-19 are presented for further examination.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 21-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Schweitzer et al. (hereinafter “Schweitzer”, US Patent Publication 2002/0091811 A1).

As per claim 21, Schweitzer discloses a method for providing network traffic statistics of a service provider network to an enterprise network, wherein the service provider network comprises a first management system and wherein the enterprise network comprises a second management system, comprising:

receiving a packet by a router in the service provider network from a node in the enterprise network, wherein the packet includes a request for network traffic statistics of the service provider network that affects the enterprise network (paragraphs [0011, 0023, 0046], Abstract);

performing an analysis of network traffic by the router in response to the request and generating network information (paragraphs [0011, 0065, 0072]);

transmitting the network information in one or more packets to the requesting node in the enterprise network (paragraphs [0010, 0076, 0170]).

As per claim 22, Schweitzer discloses the method of claim 21, wherein the network information provides network traffic statistics of the service provider network needed to evaluate a level of compliance with a service level agreement (SLA) between the service provider and enterprise network (paragraphs [0005, 0025]).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-2, 7-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burt et al. (hereinafter "Burt", US Patent Publication Application 2005/0005202 A1) in view of Schweitzer et al. (hereinafter "Schweitzer", US Patent Publication 2002/0091811 A1).

As per claim 1, Burt discloses a router in a service provider wide area network (WAN), wherein the wide area network is monitored by a first management system of the service provider network and wherein an end user intranet is coupled to the wide area network and monitored by a second management system of the end user intranet, the router comprising:

- at least one monitoring circuit coupled to the service provider WAN, wherein the at least one monitoring circuit is operable to examine packets communicated to the router and to provide network information associated with selected ones of the examined packets (paragraphs [0022-0023, 0038]);
- circuitry for processing the provided network information based on a second type of analysis requested by at least one node coupled to the network (paragraphs [0117-0118]);
- circuitry for including processed network information based on the second type of analysis into one or more packets (paragraphs [0119, 0121]);
- circuitry for transmitting the one or more packets with processed network information based on the second type of analysis over a data path in the WAN to at least one node included within the second management system of a second network and is outside of the management system (paragraphs [0122-0123])

Burt does not explicitly disclose:

- in response to receiving a request from the second management system for the end user intranet, processing the provided network information based on a

second type of analysis requested by the second management system of the end user intranet;

- processing provided network information based on a first type of analysis requested by the first management system;
- transmitting processed network information based on the first type of analysis to the first management system;
- the second management system of the end user intranet outside of the first management system, wherein the processed network information based on the second type of analysis provides network information on operation of the WAN affecting operation of the end user intranet.

However, Schweitzer teaches capturing network traffic information at information sources. Manager devices consolidate the information to be used for billing or network accounting. Specifically, businesses on enterprise networks (intranet) gather network information in order to set prices for IP services for its customers. Traffic statistics and quality of service information are collected and used for assigning payments (paragraphs [0005, 0023, 0049, 0083]).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate Schweitzer's end user intranet processing network information based on a second type of analysis in Burt's router in order to bill consumers according to their used bandwidth at particular qualities of service while providing a distributed network accounting and billing system

As per claim 2, Burt discloses the router of claim 1, wherein the management system comprises a plurality of nodes operable to communicate according to a network management system protocol (paragraphs [0017, 0030]).

As per claim 7, Burt discloses the router of claim 1 wherein the circuitry for transmitting is further for transmitting the one or more packets along the network to at least one node that is part of the management system (paragraphs [0035-0036]).

As per claim 8, Burt discloses the router of claim 1, wherein the circuitry for transmitting is further for transmitting the one or more packets along the network to a plurality of nodes coupled to the network; and  
wherein the plurality of nodes are outside of the management system.  
(paragraphs [0022-0024, 0027]).

As per claim 9, Burt discloses the router of claim 1, and further comprising:

- wherein the circuitry for transmitting is for transmitting a first set of the one or more packets along the network to a first respective node coupled to the network  
(paragraphs [0024, 0119]);
- wherein the circuitry for transmitting is for transmitting a second set of the one or more packets along the network to a second respective node coupled to the network  
(paragraph [0023]); and

- wherein the first respective node and the second respective node are outside of the management system (paragraphs [0023, 0026, 0131]).

As per claim 10, Burt discloses the router of claim 9, wherein the first set of the one or more packets corresponds to a first type of analysis performed by the circuitry for processing the provided network information; and wherein the second set of the one or more packets corresponds to a second type of analysis, different from the first type of analysis, performed by the circuitry for processing the provided network information (paragraphs [0039-0117]).

As per claim 11, Burt discloses the router of claim 1, wherein the at least one monitoring circuit is operable to examine packets in response to a set of criteria; and wherein the selected ones of the examined packets correspond to packets that satisfy the set of criteria (paragraphs [0117, 0123]).

As per claim 12, Burt discloses the router of claim 1 wherein the network comprises the global Internet (paragraph [0030]).

As per claim 13, Burt discloses the router of claim 1 wherein the network is selected from a group consisting of a cell-based network and a packet-based network (paragraph [0030]).



As per claim 14, Burt discloses the router of claim 1 wherein the provided information comprises information copied from the examined packets (paragraph [0031]).

As per claim 15, Burt discloses the router of claim 1 wherein the provided information comprises information not included in the examined packets (paragraph [0038]).

As per claim 16, Burt discloses the router of claim 1 wherein the provided information is selected from the set consisting of packet time of arrival data, port arrival data, number of discarded packets, error packets, port utilization, and buffer utilization (paragraph [0026]).

As per claim 17, Burt discloses the router of claim 1 and further comprising a plurality of routers, and wherein each router in the plurality of routers is for coupling into the computer network, and wherein each router of the plurality of routers comprises:

- at least one monitoring circuit coupled to the network, wherein the at least one monitoring circuit is operable to examine packets communicated to the router and to provide network information associated with selected ones of the examined packets (paragraphs [0022-0023, 0038]);
- circuitry for processing the provided network information based on a second type of analysis requested by at least one node coupled to the network (paragraphs [0117-0118]);

- circuitry for including processed network information based on the second type of analysis into one or more packets (paragraphs [0119, 0121]);
- circuitry for transmitting the one or more packets with processed network information based on the second type of analysis over a data path in the network to the at least one node coupled to the network, wherein the at least one node is included within a second management system of a second network and is outside of the management system (paragraphs [0122-0123])

Burt does not explicitly disclose:

- processing provided network information based on a first type of analysis requested by the first management system;
- transmitting processed network information based on the first type of analysis to the first management system.

However, Schweitzer teaches capturing network traffic information at information sources. Manager devices consolidate the information to be used for billing or network accounting. Specifically, businesses on enterprise networks (intranet) gather network information in order to set prices for IP services for its customers. Traffic statistics and quality of service information are collected and used for assigning payments (paragraphs [0005, 0023, 0049, 0083]).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate Schweitzer's end user intranet processing network information based on a second type of analysis in Burt's router in

order to bill consumers according to their used bandwidth at particular qualities of service while providing a distributed network accounting and billing system

As per claim 18, Burt discloses the router of claim 17 wherein at least two of the routers in the plurality of routers are operable to include respective processed information into a respective set of one or more packets for transmission to a same destination node (paragraph [0022]).

As per claim 19, Burt discloses the router of claim 18 wherein the same destination node is outside of the management system (paragraphs [0022-0024, 0027]).

5. Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burt et al. (hereinafter "Burt", US Patent Publication Application 2005/0005202 A1) in view of Schweitzer et al. (hereinafter "Schweitzer", US Patent Publication 2002/0091811 A1) and in further view of Applicant's Admitted Prior Art (AAPA).

As per claim 3, Burt, in view of Schweitzer, does not explicitly disclose the router of claim 2 wherein the network management system protocol is selected from a group consisting of a Simple Network Management Protocol, a Common Management Information Protocol and a Common Object Request Broker Architecture protocol. However AAPA teaches communication with management use one various standard protocols such as Simple Network Management Protocol (SNMP), the Common

Management Information Protocol (CMIP), and the Common Object Request Broker Architecture (COBRA) protocol (page 2, lines 25-29).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate AAPA's network management system protocol is selected from a group consisting of a Simple Network Management Protocol, a Common Management Information Protocol and a Common Object Request Broker Architecture protocol in Burt's router in order to report network statistics and any event communications from the router to the management system (AAPA, page 2, lines 24-25).

As per claim 4, Burt, in view of Schweitzer, does not explicitly disclose the router of claim 2 wherein the management system comprises a network management system/element management system.

However, AAPA teaches as known in the art, the network management system (NMS) is a defined hierarchy. The management system typically includes the NMS at an upper level, below which are several element management system (EMS) nodes (page 2, lines 5-6, 9-10).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate AAPA's management system comprises a network management system/element management system in Burt's router in order to collect information about and manage functions within each managed router (AAPA, page 2, lines 11-12).

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burt et al. (hereinafter "Burt", US Patent Publication Application 2005/0005202 A1) in view of Schweitzer et al. (hereinafter "Schweitzer", US Patent Publication 2002/0091811 A1) and in further view of Beyda (US Patent Publication Application 2004/0139179 A1).

As per claim 5, Burt, in view of Schweitzer, does not explicitly disclose the router of claim 1, wherein a set of transmitted one or more packets correspond to a set of packets received at the router; and

wherein the circuitry for transmitting is for transmitting the one or more packets within 60 seconds of when the router receives the set of packets received at the router.

However, in an analogous art, Beyda teaches the router monitoring operational parameters and generating reports every 10 or 60 seconds to reflect the status (paragraphs [0026-0027]).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate Beyda's transmitting the one or more packets within 60 seconds of when the router receives the set of packets received at the router in Burt's router in order to indicate the health of the router and the bandwidth utilization (Beyda, paragraph [0026]).

### ***Response to Arguments***

7. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BARBARA N. BURGESS whose telephone number is (571)272-3996. The examiner can normally be reached on M-F (8:00am-4:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Barbara N Burgess/  
Examiner, Art Unit 2457

Barbara N Burgess  
Examiner  
Art Unit 2457

June 15, 2009

/ARIO ETIENNE/  
Supervisory Patent Examiner, Art Unit 2457